

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

K.L., individually and on behalf of M.L., a child
with a disability,

Plaintiff(s),

12-CV-6313 (DLC)

Affirmation

- against -

Warwick Valley Central School District,

Defendant.

Jesse Cutler, an attorney admitted to practice law within this District, being duly sworn,
deposes and says:

1. I am an attorney duly admitted to the bar of the State of New York, and to the bars of the United States Supreme Court, the United States Court of Appeals for the Second Circuit, the United States District Court for the Southern District of New York and the United States District Court for the Eastern District of New York.
2. I was admitted to practice law in New York State in 2003.
3. I am a 2002 graduate of Brooklyn Law School.
4. I have been practicing special education law since 2003, representing parents of students with disabilities with regard to obtaining a free appropriate public education in the least restrictive environment.
5. My practice involves assisting parents in advocating for their children's needs at meetings of their school districts' Committee on Special Education and pursuing due process through impartial hearings and all subsequent appeals. I have represented parents in the geographic areas covered by the Southern District of New York and the Eastern District of New York geographic areas.
6. I am a partner of, and serve as Supervising Attorney for, the Law Offices of Regina Skyer and Associates, L.L.P., and in this capacity review the work product and billings of eight attorneys who practice in the same area of law.

7. My hourly rate is currently \$450.00 per hour, which I believe accurately reflects rates within the Southern District of New York for attorneys of similar skills and experience practicing in this area of law.
8. The special education bar, even in New York City, is a relatively small group of lawyers. I am familiar with the majority of the attorneys who practice in this area, including those in firms representing parents, those in firms representing school districts other than the New York City Department of Education, and those in firms of a more general practice nature, which represent parents on a “pro-bono” basis, however bill school districts for their time should they obtain prevailing party status. I maintain such relationships for personal and professional reasons, and frequently speak at regional and national conferences with attorneys from both sides of the bar.
9. I follow the decisions of the District Courts within this Circuit in all special education matters that are decided, and frequently review the pleadings and underlying records of these matters to remain current in the field and to keep abreast of developments in litigation strategies and positions.
10. I am often retained to review the administrative records and decisions of special education matters that were handled by other attorneys and/or with an eye toward making recommendations regarding the appeal of such matters to the District Courts and recognize that the length and complexity of due process hearings has significantly increased due to the increasing number of cases that are appealed to the Office of State Review and to the District Courts.
11. The increasingly complex nature of special education litigation is often recognized by Judges within this District, whether when referring to the highly specialized vocabulary used by the educators charged with offering students an appropriate educational plan in the first instance, when deferring to the “educational expertise” of the administrative finders of fact, or when issuing extremely lengthy decisions examining and parsing out the numerous allegations and defenses raised by both parties.
12. Parents who unilaterally place their children in such programs and subsequently seek reimbursement tend to retain attorneys who possess significant clinical and legal knowledge regarding students with such needs as opposed to using attorneys with generalized knowledge and litigation experience.
13. I have reviewed the rates charged by attorneys practicing in the area of education law throughout the geographic area covered by the Southern District of New York and have personal knowledge that the rates charged to paying clients for legal services provided in conjunction with administrative hearings and appeals, as well as litigation before this Court, range between \$400 and \$650 per hour.

February 28, 2013
New York, NY

/s/ Jesse Cole Cutler